

STATE OF TENNESSEE

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Opinion No. 02-133

Public Records on the Internet

QUESTION

May the Shelby County Register's Office, which makes all its public records available on the Internet, remove records regarding military discharges from the Internet while continuing to make other types of public documents available on the Internet?

OPINION

Yes.

ANALYSIS

This opinion concerns the responsibility of a county register who decides to make public records available on the Internet. The request indicates that the Shelby County Register makes all its public records available on the Internet. The question is whether the Register may remove military discharge records from the Internet while continuing to make other types of public documents available on the Internet. Military discharges are eligible for registration in the county register's office under Tenn. Code Ann. § 66-24-101(20).

Under Tenn. Code Ann. § 10-7-503, all county records must be made available for inspection during regular business hours, unless otherwise provided by state law. But no statute requires a county register to make records available on the Internet. Tenn. Code Ann. § 10-7-123 provides that "[e]ach county official *may* provide computer access and remote electronic access for inquiry only to information contained in the records of that office which are maintained on computer storage media in that office, during and after regular business hours." (Emphasis added). The Internet is a means of "remote electronic access" within the meaning of this statute. Op. Tenn. Atty. Gen. 00-014 (January 26, 2000). Subdivision (a)(4) of Tenn. Code Ann. § 10-7-123 provides:

Once a remote electronic access information system is in place, access must be given to all members of the public who desire access to such records, and pay applicable reasonable fees as defined in this section, including those who may use such information for proprietary purposes.

Thus, records available on the Internet must be available to all members of the public who desire access to them and will pay the applicable fees. But the statute does not require a county official to make every record in his or her office available on the Internet, nor does it prevent the official from withdrawing some records from Internet access. For this reason, the Shelby County Register's Office may withdraw military discharge records from Internet access, while continuing to make its other records available on the Internet. Of course, all public records must still be open for inspection at the County Register's Office during regular business hours, unless otherwise provided by state law.

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